

HOUSE No. 1595

By Mr. Walsh of Boston, petition of Martin J. Walsh and Brian P. Wallace relative to workers' compensation. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO WORKER'S COMPENSATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 36 of Chapter 152 of the General Laws is
2 hereby amended by striking out subsection (k) and substituting in
3 its place the following paragraph:— “Subsection (k). For bodily
4 disfigurement, an amount which, according to the determination
5 of the member or reviewing board, is a proper and equitable com-
6 pensation, not to exceed the average weekly wage in the Com-
7 monwealth at the date of injury multiplied by twenty-nine; which
8 sum shall be payable in addition to all other sums due under this
9 section.”

1 SECTION 2. Section 33 of Chapter 152 of the General Laws is
2 hereby amended by striking out the word “four” and inserting in
3 place thereof the word “eight.”

1 SECTION 3. Chapter 152 of the General Laws, as now
2 appearing, is hereby amended by striking out Section 35 as so
3 appearing, and inserting in place thereof, the following section:—
4 “Section 35. While the incapacity for work resulting from the
5 injury is partial, during each week of incapacity, the insurer shall
6 pay the injured employee a weekly compensation equal to sixty
7 percent of the difference between his or her average weekly wage
8 before the injury and the weekly wage he or she is capable of
9 earning after the injury. An insurer may reduce the amount paid to

10 an employee under this section to the amount at which the
11 employee's combined weekly earnings and benefits are equal to
12 two times the average weekly wage in the Commonwealth at the
13 time of such reduction. The total number of weeks of compensa-
14 tion due the employee under this section shall not exceed two
15 hundred sixty; provided however, that this number may be
16 extended to five hundred twenty if an insurer agrees or an admin-
17 istrative judge finds that the employee has, as a result of a per-
18 sonal injury under this chapter, suffered a permanent loss of
19 seventy-five percent or more of any bodily function or sense spec-
20 ified in paragraph (a), (b), (e), (f), (g), or (h) of subsection (1) of
21 Section 36, developed a permanently disabling occupational dis-
22 ease which is of a physical nature and cause, or has returned to
23 employment pursuant to an Individual Written Rehabilitation Plan
24 pursuant to Section 30(H); or has been found unsuitable for voca-
25 tional rehabilitation by the Office of Education and Vocational
26 Rehabilitation; or has returned to employment at less than his pre-
27 injury average weekly wage; or has been found by an administra-
28 tive judge to have a permanent partial incapacity. Where
29 applicable, losses under this section shall be determined in accor-
30 dance with standards set forth in the American Medical Associa-
31 tion Guides to the Evaluation of Permanent Impairments. Where
32 the insurer agrees or the administrative judge finds such perma-
33 nent partial disability as is described in this paragraph, the total
34 number of weeks the employee may receive benefits under this
35 section shall not exceed five hundred twenty. Where there has
36 been no such agreement or finding the number of weeks the
37 employee may receive benefits under these sections shall not
38 exceed three hundred sixty-four."